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15 Videotaped Deposition of TIM LINDHOLM, taken  
16 at 333 Twin Dolphin Drive, Redwood Shores,  
17 California, commencing at 9:56 a.m., Wednesday,  
18 September 7, 2011, before Ashley Soevyn,  
19 CSR No. 12019.

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1 machine that will typically include some sort of  
 2 instruction set that is intended to be well, is  
 3 typically implemented as a software program.  
 4 This is I'm meaning to draw the  
 5 distinction with a concrete machine, a concrete  
 6 processor, such as, say, an Intel chip. An Intel  
 7 central processing unit chip will, itself, have a  
 8 set of instructions, but those instructions and the  
 9 other aspects of the design of that chip are  
 10 intended to be are typically intended to be  
 11 implemented in silicon

12 THE REPORTER: In what?

13 THE WITNESS: In silicon as hardware.

14 So a lot of there is a bit of a gray  
 15 area here in that it would be perfectly reasonable  
 16 for me to do a software implementation of an Intel  
 17 instruction set and to emulate the Intel instruction  
 18 set. In fact, various various companies have  
 19 done that sort of thing is my general understanding.

20 For instance, when Apple transitioned from  
 21 the Power PC platform to the Intel platform, I think  
 22 that they did an emulator for the Power PC platform  
 23 so that people who had old applications that were  
 24 compiled to the Power PC, could be run on the now  
 25 Intel based, new Macintoshes.

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1 THE WITNESS: When I joined Sun in 1994,  
 2 Java didn't exist. There was no language by no  
 3 language, no virtual machine named J a v a, or JVM.  
 4 The as is become public now, at that time at  
 5 that time Sun was working on a language that's  
 6 called Oak, and Oak had a virtual machine.

7 Over time, beginning shortly after I  
 8 joined, things happened in the project that had led  
 9 to the creation of Oak such that such that the  
 10 Oak project was basically canceled. But some of the  
 11 technology that was developed in the context of Oak  
 12 was repurposed for the World Wide Web and was  
 13 renamed Java.

14 So the Oak virtual machine, which predated  
 15 my presence at Sun, contained a large portion or  
 16 probably, arguably the majority of the Java Virtual  
 17 Machine design. But over the next series of  
 18 years and actually, continuing to the current  
 19 day, the Java Virtual Machine had continued to  
 20 evolve over time. But in particular, during the  
 21 time not long after I joined Sun, the Java Virtual  
 22 Machine was firmed up, fleshed out

23 Q. Mr. Lindholm, I don't like to interrupt the  
 24 witness, but and I appreciate your you're  
 25 extremely knowledgeable about this, but I would like

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1 So to get back to the start, a virtual  
 2 machine is an abstract machine typically meant to be  
 3 implemented in software versus in silicon or  
 4 hardware, like a processing processor specification  
 5 that is in silicon.

6 BY MR. NORTON:

7 Q. And you wanted to describe a virtual  
 8 machine generally, and then my question to you  
 9 previously had been could you tell me in two  
 10 sentences what a Java Virtual Machine is?

11 MS. ANDERSON: Objection, form.

12 THE WITNESS: Well, so the there have  
 13 been a number of there have been a number  
 14 versions of the Java Virtual Machine over time. But  
 15 generally speaking, a Java Virtual Machine refers to  
 16 a particular virtual machine architecture that was  
 17 specified by Sun and implemented has been  
 18 implemented by Sun and by others. But it's a  
 19 particular virtual machine design that has  
 20 particular features and particular properties.

21 BY MR. NORTON:

22 Q. And were you one of the contributors to the  
 23 original Java Virtual Machine?

24 MS. ANDERSON: Objection, form.

25 MR. LISI: Join.

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1 to focus on my questions particularly

2 A. Okay.

3 Q. since we do have a very limited amount  
 4 of time.

5 A. Okay, I'm sorry.

6 Q. And my question was just a "yes" or "no"  
 7 for now

8 A. Okay.

9 Q. which was, were you a contributor for  
 10 the original Java machine Virtual Machine, I  
 11 should say?

12 MS. ANDERSON: Objection, form.

13 MR. LISI: Join.

14 THE WITNESS: Well, so I can't give a crisp  
 15 "yes" or "no" in the context of what I was saying.  
 16 I was a contributor to the early, not the earliest,  
 17 but in the early days of Java, and the early Java  
 18 being brought to the public eye, I was a contributor  
 19 at that point.

20 BY MR. NORTON:

21 Q. And you are the coauthor of the book, "The  
 22 Java Virtual Machine Specifications"; is that  
 23 correct?

24 A. That's correct.

25 Q. And what is the purpose for which the Java

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<p>1 Virtual Machine specification is used?</p> <p>2 MS. ANDERSON: Objection, form.</p> <p>3 MR. LISI: Join.</p> <p>4 THE WITNESS: Well, it's used for a number of purposes. It it was intended to be it was intended to be the definitive statement of what the Java Virtual Machine definitive definition of the Java Virtual Machine. It was also used by people who wanted to implement Java Virtual Machines or who wanted to certainly, in the early days, people were just very interested in Java technology. And a lot of people wanted to read the virtual machine specification just to understand how Java technology worked. So it had quite a number of intents, and I'm sure people use it for other purposes, too.</p> <p>16 Q. Your coauthor on the Java Virtual Machine Specification was Frank Yellin; is that correct?</p> <p>18 A. That's correct.</p> <p>19 Q. And Mr. Yellin is also employed by Google; is that correct?</p> <p>21 A. As far as I know, he was when I last talked to him.</p> <p>23 Q. You were a key contributor to the Java programming language, correct?</p> <p>25 MS. ANDERSON: Objection, form.</p>	<p>1 MR. NORTON: Let's mark our first exhibit 2 of the day, which will be Plaintiff's Exhibit 524.</p> <p>3 I will hand that to you, Mr. Lindholm. I have 4 copies for counsel.</p> <p>5 (Exhibit 524 marked for identification.)</p> <p>6 MS. ANDERSON: Thank you.</p> <p>7 BY MR. NORTON:</p> <p>8 Q. Mr. Lindholm, have you ever seen that before?</p> <p>10 A. Yes, I have.</p> <p>11 Q. Is that a website biography of you?</p> <p>12 A. I believe that it is.</p> <p>13 Q. Did you write it?</p> <p>14 A. I think that originally I did not write it. I might have commented on it, but -- well, I do not believe I originally wrote it.</p> <p>17 Q. But you did comment on it?</p> <p>18 A. I had seen it, yes.</p> <p>19 Q. Did you see it before it was published, that is, posted on the Internet?</p> <p>21 A. I don't remember. This was -- this was originally written quite some time ago.</p> <p>23 Q. And have you seen it on the Internet?</p> <p>24 A. Yes, I think I have.</p> <p>25 Q. Did you ask anybody to change anything in</p>
<p>1 MR. LISI: Join.</p> <p>2 THE WITNESS: I don't think I would call 3 myself a key contributor to the Java programming 4 language. I contributed some things, but there were 5 certainly quite a few people who did much more than 6 that I did. I was more focused on the virtual 7 machine.</p> <p>8 BY MR. NORTON:</p> <p>9 Q. You were a key contributor to the Java Runtime, correct?</p> <p>11 MS. ANDERSON: Objection, form.</p> <p>12 MR. LISI: Join.</p> <p>13 THE WITNESS: The virtual machine is part 14 of the Java Runtime, so so at least by that, 15 yes.</p> <p>16 BY MR. NORTON:</p> <p>17 Q. And you were an original member of the Java technology project at Sun, correct?</p> <p>19 A. Well, yes, I'm not sure if in some official 20 sense there was a Java technology project. Various 21 people used various things to say that they were 22 there at the beginning when Java, as it became known 23 to the public, what was done. So, you know, I 24 what that says is I was present I was in the team 25 in '94, '95.</p>	<p>1 the website bio in Exhibit 524?</p> <p>2 A. I don't remember. I don't recall. I think 3 that I think that there were I think that in 4 the past, whether it was I think that in the past 5 I have asked people to change I think I have 6 asked something to be changed in here, but I don't 7 really remember what or what the context of that 8 was.</p> <p>9 Q. You'll see that in the second paragraph of 10 the biography it states, "Prior to Google, Tim was 11 an original member of the Java technology project at 12 Sun Microsystems and a key contributor to the Java 13 programming language and Runtime, both definition 14 and implementation." Do you see that?</p> <p>15 A. I do see that.</p> <p>16 Q. That was part of the bio that you'd seen 17 before?</p> <p>18 MS. ANDERSON: Objection, form.</p> <p>19 THE WITNESS: I don't know. This wasn't 20 something that I've spent a lot of time worrying 21 about. This is a small this was something that 22 somebody else wanted to put up about me, and I 23 said kind of said, "Okay."</p> <p>24 BY MR. NORTON:</p> <p>25 Q. You haven't changed it, have you?</p>

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1 A. I don't have access to this website to  
2 change.  
3 Q. Did you ask somebody to change that  
4 sentence that I just read?  
5 I don't remember. I think I had some  
6 correspondence with this, but it wasn't but I  
7 didn't really spend any time on this.  
8 Q. Did you ask anyone to change the sentence  
9 that I just read?  
10 A. I don't remember doing so.

11 Q. Do you recall there was litigation between  
12 Sun Microsystems and Microsoft?  
13 A. Yes, I do.  
14 Q. And you were deposed twice in the  
15 litigation between Sun and Microsoft, correct?  
16 A. I'm not sure if twice is the right number,  
17 but I was deposed repeatedly. I know it was two or  
18 more.  
19 Q. So at least twice?  
20 A. Yes, I think that's correct.  
21 Q. Now, the first lawsuit was because  
22 Microsoft tried to steal Java, correct?  
23 MS. ANDERSON: Objection, form.  
24 MR. LISI: Join.  
25 THE WITNESS: I think the the complaint

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1 BY MR. NORTON:  
2 Q. And DeWitt Clinton had forwarded the lower  
3 part of the e mail exchange; is that right?  
4 MS. ANDERSON: Objection, form.  
5 MR. LISI: Join.  
6 THE WITNESS: Well, I guess I don't know.  
7 I would all I can say  
8 BY MR. NORTON:  
9 Q. I'll ask the question again.  
10 A. Yeah.  
11 Q. You've seen e mails before, right?  
12 A. Yes.  
13 Q. And you know that, as you just indicated,  
14 that you read them from the bottom up, right, to  
15 read them chronically?  
16 A. Correct.  
17 And in this particular e mail, part of the  
18 thread is an e mail sent on "11/13/06 from Nicholaus  
19 Shupe." Do you see that?  
20 A. Yes.  
21 Q. And in that, he says, amongst other things,  
22 "I also wonder what Microsoft's reaction to this  
23 will be given their previous involvement with Java."  
24 Do you see that?  
25 A. I see that.

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1 is what was what it was. I don't think it would  
2 be I don't think it would be very legitimate for  
3 me to try to paraphrase it. I'm an engineer, not a  
4 lawyer.

5 BY MR. NORTON:

6 Q. Well, I'm not asking you to paraphrase the  
7 complaint. I'm asking, did you ever tell anyone the  
8 first Sun lawsuit was because Microsoft tried to  
9 steal Java?  
10 A. I don't recall telling anyone in exactly  
11 those words, but I don't think that would be that  
12 sounds like that would be a throwaway remark. It's  
13 not a very precise statement.  
14 MR. NORTON: Let's mark Exhibit 525, and  
15 I'll hand a copy of that to you.  
16 (Exhibit 525 marked for identification.)  
17 BY MR. NORTON:  
18 Q. Exhibit 525 is a November 13th, 2006 e mail  
19 exchange between yourself and Matt Frantz; is that  
20 correct?  
21 MS. ANDERSON: I'll ask him to take a  
22 moment to review the document.  
23 THE WITNESS: Yeah, I think I better take a  
24 look at this. Read it from the bottom, okay. Okay,  
25 I've now read this. Your question?

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1 Q. All right, good. And then you see that  
2 someone named DeWitt Clinton responds to Mr. Shupe's  
3 e mail. Do you see that?  
4 A. Yes, I think I see that.  
5 Q. Good, all right. And he responds to  
6 Mr. Shupe's e mail by saying, "You mean like when  
7 Sun sued us," paren. "I was at Microsoft working on  
8 Visual J++ at the time. He stopped us from shipping  
9 a nearly finished product." And he goes on from  
10 there. Do you see that?  
11 A. Yes, I do see that.  
12 Q. And Mr. Frantz forwards the e mail to you  
13 and says, "Did you see this thread in Java users?"  
14 Do you see that?  
15 A. I do see that.  
16 Q. And you responded to Mr. Frantz, correct?  
17 A. Yes, I think that is probably correct.  
18 Q. And in your e mail to Mr. Frantz, amongst  
19 other things, you state, "Of course, if they had  
20 just done C# and Dot NET at the time, rather than  
21 trying to steal Java, they might well have won."  
22 Did you write that?  
23 A. I don't remember specifically writing that,  
24 but in the context of this document, it appears that  
25 I did.

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1 Q. Do you have any reason to believe you did  
2 not write and send that e mail?  
3 A. No, I think I probably did.

4 Q. And when you refer to "they" in Exhibit  
5 525, "If they had just done C# and Dot NET at the  
6 time, rather than trying to steal Java, they might  
7 have won." "They" refers to Microsoft, correct?

8 A. I think that I think that must be  
9 correct.

10 Q. And what you were referring to in your  
11 e mail to Mr. Frantz was that when you said, "rather  
12 than trying to steal Java," you were referring to  
13 the events that were at issue in the Sun versus  
14 Microsoft lawsuit, right?

15 MS. ANDERSON: Objection, form.

16 MR. LISI: Join.

17 THE WITNESS: I didn't actually understand  
18 that question.

19 BY MR. NORTON:

20 Q. All right. I'll try again. In your  
21 e mail, when you refer to Microsoft trying to steal  
22 Java, what you were referring to were the events  
23 that were at issue in the lawsuit between Sun and  
24 Microsoft?

25 MS. ANDERSON: Objection, form.

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1 general understanding is that Microsoft was making a  
2 version of Java that that they were that they  
3 were telling people was Sun's was Sun's Java,  
4 was, you know, done done in the way people would  
5 expect Java to be. But, in fact, that they were  
6 consciously making minor variations to it that would  
7 cause people's programs only to work on their  
8 implementation.

9 But, again, the real content is that it was  
10 a topic of that lawsuit that I was really pointing  
11 to, as opposed to being specific about anything in  
12 particular.

13 Q. But in that lawsuit, Sun objected to  
14 Microsoft having a version of Java that was done in  
15 a way that making variations would cause people's  
16 programs to only work on Microsoft's implementation;  
17 is that right?

18 A. So are you saying in the context of that  
19 of the litigation?

20 Q. Correct.

21 A. I'm worrying here that I might be getting a  
22 little bit close to stuff I know, at least  
23 partially, under privileged things from my time at  
24 Sun.

25 Q. Well, I'll address that on behalf of

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1 MR. LISI: Join.

2 THE WITNESS: I think that in a general  
3 in some general sense, that was probably that was  
4 in a general sense what I was referring to, but I  
5 don't know specifically what that I don't know,  
6 this is 2006, I'm not sure specifically what I was  
7 referring to.

8 BY MR. NORTON:

9 Q. So sitting here today in 2011, can you tell  
10 me what you meant by saying that "Microsoft was  
11 trying to steal Java"?

12 A. Well, I think that that was a pithy way of  
13 referring to what Microsoft was doing what  
14 Microsoft's implementation of J++ and the content of  
15 the Sun Microsoft litigation. This was a an  
16 informal e mail. I think that that was I think  
17 that was I think this was referring to the  
18 lawsuit and Microsoft's actions prior to that.

19 Q. Why don't you tell me in your own words  
20 what is it that you understood that Microsoft was  
21 doing that, in this informal e mail of 2006, you  
22 characterize was trying to steal Java?

23 A. Well, this this would is properly the  
24 topic of the litigation. But my general  
25 understanding was that they were trying to my

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1 Oracle. As to Sun, I'm not asking you to divulge  
2 anything that is privileged.  
3 But if you have your own understanding of  
4 what you said to me a moment ago well, let me  
5 a moment ago you testified that one of the things at  
6 issue in the lawsuit was that Microsoft had a  
7 version of Java that was had to which they had  
8 made variations such that programs would run only on  
9 Microsoft's version of Java, did I get that much  
10 correct?

11 A. It's close. I mean

12 Q. All right. Your original answer is your  
13 answer. I'm just trying to orient it.

14 A. Understood, understood.

15 Q. All right. And then my question was, in  
16 the lawsuit, was that one of things that Sun  
17 objected to?

18 MR. LISI: I'm going to instruct you along  
19 the lines of what counsel just said. If it does  
20 if that answer implicates things that you learned  
21 solely from Sun's counsel at the time, I instruct  
22 you not to answer that. Not to get into privilege  
23 areas. If you have other information, that's  
24 fine.

25 THE WITNESS: I think I can reasonably say

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<p>1 that there is a general understanding that that was  2 true. I have a more specific understanding, given  3 the role I played in that trial, but I don't want to  4 go there because that should be would be at least  5 partially, if not mostly, privileged topics.</p> <p>6 BY MR. NORTON:</p> <p>7 Q. You said you have more specific  8 information, but the general information you just  9 gave me, is that information true?</p> <p>10 A. Could you restate what sorry.</p> <p>11 Q. So you told me a moment ago that you could  12 give more specific you have a more specific  13 understanding, but that you were concerned that  14 might get into privilege issues. I don't want you  15 to get into privilege issues. I just want to know  16 that the answer that you gave me before you said you  17 have a more specific understanding is the answer  18 that you gave me before you said you have a more  19 specific answer a correct answer?</p> <p>20 A. So maybe the right answer is I forgotten  21 what my answer was. Is it possible to get  22 Q. We'll stick with the answer we got.  23 A. Okay. Sorry, I just kind of got  24 confused.  25 Q. We went back and forth a couple times.</p>	<p>1 are a little easier to read.  2 A. I do see that, yeah.  3 Q. It says 2005 e-mail?  4 A. That does say 2005 there.  5 Q. Okay. Now, actually, I want to turn back  6 to the second page of the e-mail, Exhibit 198.  7 A. Second page, okay, I'm there.  8 Q. And you'll see in the center of the page  9 there's an e-mail from Bill Lee, dated July 14th,  10 2005?  11 A. It's about a third of the way down.  12 Q. About.  13 A. July 14th, yes. Yes, I do believe I see  14 that.  15 Q. Do you recall this particular e-mail?  16 MS. ANDERSON: Review it.  17 THE WITNESS: I better check this. I might  18 have to go back and look at -- when it comes to  19 specific questions, because the changes are so  20 interleaved here, I have trouble keeping track of  21 who saying what. Okay, I've -- I've scanned this.  22 I think if -- when you ask specific questions, I  23 might want to try and figure out who exactly said  24 what in response to what.  25 BY MR. NORTON:</p>
<p>Page 26</p> <p>1 That's quite all right.  2 So you started at Google in July of 2005,  3 correct?  4 A. I think that's correct.  5 MR. NORTON: All right. I'm going to hand  6 you what previously had been marked as Exhibit 198.  7 It might not be the best copy, but this is an e mail  8 string, but at the top, it's an e mail from Andy  9 Rubin to you; is that correct?  10 (Exhibit 198 previously marked for  11 identification.)  12 THE WITNESS: Well, like you said, this  13 isn't great, but it looks like it looks like  14 that. I can't read it very well, but I think I can  15 read that much.  16 BY MR. NORTON:  17 Q. And the date on this e mail, which I think  18 is a little easier to read, is July 15th, 2005; is  19 that right?  20 A. I think that's correct. The five is not  21 on my copy, isn't is kind of blended into the  22 other grade, but I think it's a five.  23 Q. And if you look down to the first e mail  24 in the string, which refers to a 12:26 p.m. e mail  25 by Tim Lindholm. Do you see that? The other dates</p>	<p>Page 28</p> <p>1 Q. Sure, the specific pending question is, do  2 you remember this e mail?  3 A. No, I don't recall this e mail.  4 Q. If you can turn back to the second page.  5 A. Okay.  6 Q. The e mail that I directed you to  7 previously, the July 14 e mail from Mr. Lee  8 A. I do see that.  9 Q. it starts off, "Andy, it was nice  10 talking with you today"?</p> <p>11 A. Uh huh.  12 Q. And then I don't have any questions about  13 that one. I just want to orient so that there's  14 was other one above it where Mr. Rubin responds. Do  15 you see that?  16 A. Yes.  17 Q. All right. And he says, "Thanks, Bill,  18 Josh, and Tim, we love your thoughts. Have time for  19 coffee? Andy." Do you see the P.S.?  20 A. Uh huh.</p> <p>21 Q. It says, "Tim, I owe you an update since  22 our last meeting at Android." And then there is a  23 smiley face. What was the last meeting between you  24 and Mr. Rubin at Android?  25 A. When I was at Sun, I attended a meeting</p>
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<p>1 with Android with Android, the company, which was  2 at this point, a tiny startup, that where we  3 discussed the possibilities of Android and Sun  4 working together in one form or another. I don't  5 remember when this meeting was, but I know there  6 was there was such a meeting.</p> <p>7 Q. And you say the possibility of Android and  8 Sun working together, do you have a more specific  9 recollection of what was discussed, what the nature  10 of the two companies working together would be?</p> <p>11 A. Again, I run the risk of getting into Sun  12 confidential things. This was these were this  13 is me discussing, as a Sun employee and with some  14 other people, I don't want to tread on some kind of  15 confidential stuff unless you want me to do so.</p> <p>16 Q. You may tread on some confidential stuff as  17 distinguished from privileged, but if there's things  18 you consider to be confidential, you may divulge  19 that in the deposition. (inaudible due to coughing)</p> <p>20 A. My recollection was that this was a very  21 that when the meeting with Android was was a  22 group of people coming from Sun in a mixed group  23 of people, just a very exploratory discussion with  24 this company that we didn't that we had just  25 well, I don't actually know. I had just learned</p>	<p>1 So it wasn't this was not a matter of  2 something specific, like a license. It was a very  3 exploratory thing about much more an exploratory  4 thing of trying to figure out whether whether  5 I think much more to the point was whether  6 whether Android would benefit by using Sun source  7 code in the pursuit of whatever their product plans  8 were at the time.</p> <p>9 Q. Okay. I'm going to ask you try to focus a  10 little more on my questions.</p> <p>11 A. Okay, sorry, sorry.</p> <p>12 Q. Again, I understand you have information to  13 share, but I do want you to focus on the information  14 I was asking for. Which is in the context of those  15 conversations the conversation you had at Android  16 with Mr. Rubin and perhaps others, was there  17 discussion of Android taking a license from Sun, yes  18 or no?</p> <p>19 MS. ANDERSON: Objection, form.</p> <p>20 MR. LISI: Asked and answered.</p> <p>21 MS. ANDERSON: You don't need to accept  22 instructions on how to answer a question.</p> <p>23 MR. NORTON: Please limit yourself to  24 proper objections.</p> <p>25 MS. ANDERSON: Well, actually, it's</p>
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<p>1 I don't know what we thought, but I believe that I  2 had just learned that this company existed.</p> <p>3 And it was the meeting with them was a  4 very typical one where Sun would where Sun  5 would where Sun would have a meeting where Sun  6 would meet with the company and try to figure out if  7 there was potentially any business with them, or  8 anything we can do together.</p> <p>9 Q. At the time that you met with well, when  10 you had this meeting at Android, I assume Mr. Rubin  11 was there, correct?</p> <p>12 A. Yes, I think he was there.</p> <p>13 Q. And was Rich Miner also there?</p> <p>14 A. I don't remember. I don't know Rich at all  15 well.</p> <p>16 Q. And in the context of that meeting, was  17 there any discussion of Android taking the license  18 from Sun?</p> <p>19 A. I only well, I I only recall in  20 general terms. I think that there was some  21 discussion about whether the work that Android was  22 doing at that time would benefit by by a  23 technology agreement with Sun that would allow  24 Android to use Sun's Sun's code, for instance,  25 for some aspect of the Java technology.</p>	<p>1 improper to instruct a witness how they must answer  2 a question, and so I do have to object to that  3 because you might mislead the witness.</p> <p>4 BY MR. NORTON:</p> <p>5 Q. Mr. Lindholm, do you recall the question?</p> <p>6 A. Could you please restate it given the  7 recent discussion?</p> <p>8 BY MR. NORTON:</p> <p>9 Q. I'll do it again. At the meeting that you  10 attended with Mr. Rubin and perhaps others, was  11 there any discussion of Android taking a license  12 from Sun, yes or no?</p> <p>13 MS. ANDERSON: Objection, form.</p> <p>14 MR. LISI: Join.</p> <p>15 THE WITNESS: I believe that there was a  16 discussion of the possibility that Android might  17 well, that Android might enter into an agreement. I  18 don't want to say license because that's too  19 specific, but there was discussion that Android  20 might enter into an agreement with Sun so as to be able  21 to use Sun's source code in Android products.</p> <p>22 BY MR. NORTON:</p> <p>23 Q. And the agreement that was discussed was a  24 component of the agreement that was being discussed,  25 a license?</p>
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1 you tell me what you meant when wrote that?  
 2 A. No, I'm not sure what I meant by that.  
 3 Q. And you went on to say, "They are only  
 4 somewhat aware of new licensing, and JCP  
 5 implications are still somewhat worried about  
 6 tainting and such stuff." Can you tell me what you  
 7 meant when you wrote, "They are still somewhat  
 8 worried about tainting and such stuff"?  
 9 A. I would have to speculate. I don't recall  
 10 writing that.  
 11 Q. Now, you concluded this e mail by writing  
 12 to yourself, "I'm going to get in all possible loops  
 13 around this project."  
 14 A. Yes, I see that there.  
 15 Q. Now, subsequent to July 15th, 2005  
 16 THE REPORTER: Fred, can we take a quick  
 17 break, my battery is frozen.  
 18 MR. NORTON: Sure.  
 19 THE VIDEOGRAPHER: The time is now  
 20 a m., and we are going off the record.  
 21 (Recess taken.)  
 22 THE VIDEOGRAPHER: The time is now  
 23 a m. We are back on the record. This marks the end  
 24 of Disk 1 to the deposition of Tim Lindholm. The  
 25 time is now 10:52 a m., and we are going back off

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1 some.  
 2 BY MR. NORTON:  
 3 Q. And you attended Google Product Strategy  
 4 meetings concerning Android, correct?  
 5 MS. ANDERSON: Objection, form.  
 6 MR. LISI: Join.  
 7 A. I attended meetings. Google Product  
 8 Strategy meeting, I'm not I don't re I don't  
 9 remember what exactly that purpose is. Google's  
 10 meetings meeting names change over time pretty  
 11 frequently, and I don't remember exactly what that  
 12 meeting was about.  
 13 BY MR. NORTON:  
 14 Q. Well, you attended at least one meeting  
 15 with Sergei Brenn (phonetic), Larry Page, and Mr.  
 16 Rubin, about Android, correct?  
 17 MR. LISI: Object to the form.  
 18 THE WITNESS: I well, I believe I  
 19 attended a meeting I believe I attended a meeting  
 20 in roughly this timeframe, 2000 late 2005, that  
 21 Larry and Sergei were present at, and if I remember  
 22 correctly, Android was discussed.  
 23 BY MR. NORTON:  
 24 Q. And you made suggestions to Mr. Rubin of  
 25 some employees that you thought would be good

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1 the record.  
 2 (Recess taken.)  
 3 THE VIDEOGRAPHER: This marks the beginning  
 4 of Disk 2 to the deposition of Tim Lindholm. The  
 5 time is 11:12 a m. We are on the record.  
 6 BY MR. NORTON:

7 Q. So after July 15, 2005, where you had  
 8 written in Exhibit 526, you were going to get in all  
 9 possible loops on this project. You said that in  
 10 that exhibit?

11 A. I'm looking at that now, yes.

12 Q. And then that's what you wrote at the end  
 13 of the e mail to yourself, Exhibit 526?

14 A. Well, this is this is an e mail that I  
 15 don't recall writing, but it's in this e mail which  
 16 I don't dispute.

17 Q. All right. Subsequent to July 15, 2005,  
 18 you engaged in brainstorming with Mr. Rubin about  
 19 Android, correct?

20 MS. ANDERSON: Objection, form.

21 MR. LISI: Join.

22 THE WITNESS: After after July 15, I  
 23 think I did have some discussions with with  
 24 Mr. Rubin. I don't remember details about them or  
 25 how many, for instance, but I think there were

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1 recruits to join the Android team, correct?  
 2 A. I don't remember doing that.  
 3 Q. Did you not suggest to Mr. Rubin that he  
 4 should interview Nedim Fresco (phonetic)?  
 5 A. If I remember correctly, Nedim came came  
 6 to us. Thinking that maybe you know, maybe he  
 7 should come to Google. And I think I I think I  
 8 recall passing that on to Andy as as somebody he  
 9 might want to talk to.

10 MR. NORTON: Let's look at what was  
 11 previously marked as Exhibit 16. I'm sorry,  
 12 Exhibit 308.

13 THE REPORTER: Okay.

14 (Exhibit 308 previously marked for  
 15 identification.)

16 MS. ANDERSON: Thank you.

17 BY MR. NORTON:

18 Q. Exhibit 308, at the top, is an e mail from  
 19 yourself to Mr. Rubin; is that correct?

20 A. I haven't I haven't read this yet. Just  
 21 from looking at the addressing, it would appear to  
 22 be so.

23 Q. All right. And it's a somewhat long  
 24 e mail, but I just want to look at the last  
 25 paragraph of the portion from you to Mr. Rubin,

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13 (Pages 46 - 49)

## Highly Confidential - Attorneys' Eyes Only

1 Q. You sent this e mail on August 6, 2010; is  
 2 that right?  
 3 A. I believe that to be true.  
 4 Q. Would you please begin reading at, "Hi,  
 5 Andy." And read the entire e mail out loud for the  
 6 record.  
 7 MS. ANDERSON: Objection. We state all of  
 8 our objections and preserve our right on appeal.  
 9 You may read the face of this e mail.  
 10 THE WITNESS: Okay. Well, can I begin with  
 11 "Attorney work product, Google confidential", which  
 12 is also in the e mail. And it goes, "Hi, Andy, this  
 13 is a short pre read for the call at 12:30. In Dan's  
 14 earlier e mail, he didn't give you a lot of context  
 15 for the visceral reaction that we got. What we have  
 16 actually been asked to do by Larry and Sergei, is to  
 17 investigate what technical alternatives exist to  
 18 Java, or Android and Chrome. We've been over a  
 19 bunch of these and think that they all suck. Think  
 20 they all suck. We conclude that we need to  
 21 negotiate a license for Java under the terms we  
 22 need. That said, Allen Eustace said that the threat  
 23 of moving off Java hit Safra Katz hard. We think  
 24 there's value in the negotiation to put forward a  
 25 most credible alternative, the goal being to get

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1 were no there were no investigations.

2 BY MR. NORTON:

3 Q. For the record, my question was not so  
 4 limited. When you wrote, "We've been over a bunch  
 5 of these and think they all suck". Who thought  
 6 "they all sucked"?

7 MS. ANDERSON: Objection, form. And also  
 8 caution the witness and instruct him not to answer  
 9 to the extent responding to the question would  
 10 require you to reveal a separate communication with  
 11 Google counsel or require you to reveal work you did  
 12 at the direction of Google counsel, as part of the  
 13 investigation.

14 THE WITNESS: So so the we the going  
 15 over what we thought about them was entirely done on  
 16 the direction of Google counsel. There was no such  
 17 work being done independently, not being done under  
 18 the direction of counsel. So I don't think I can  
 19 answer anything there.

20 BY MR. NORTON:

21 Q. What were the specific alternatives that  
 22 you have investigated for Android?

23 MS. ANDERSON: Objection, form. And also  
 24 objection on the basis of attorney client,  
 25 work product privilege. To the extent responding to

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1 better terms and price for Java. It looks to us  
 2 that Obj C provides the most credible alternative in  
 3 this context, which should not be confused with us  
 4 thinking we should make the change. What we're  
 5 looking for from you are reasons why you hate this  
 6 idea, whether you think this is a nonstarter for  
 7 negotiation purposes and whether you think there is  
 8 anything we missed in our understanding of the  
 9 option. Tim and Dan".

10 Q. Thank you. So when you wrote, "We've been  
 11 asked to investigate what technical alternatives  
 12 exist for Java and Android and Chrome, can you tell  
 13 me what technical alternatives you looked at?

14 MS. ANDERSON: Objection. Instruct the  
 15 witness not to answer on the grounds of  
 16 attorney client privilege or work product to the  
 17 extent responding to the question requires you to  
 18 reveal work that you did at the direction of counsel  
 19 or communications you had with counsel for Google in  
 20 confidence.

21 THE WITNESS: So the investigation and the  
 22 technical alternatives was strictly done on the  
 23 request of counsel, was done with the understanding  
 24 of the work product. So outside of outside of  
 25 those things covered by by that situation, there

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1 this question would require you to reveal  
 2 communications with Google counsel in confidence or  
 3 work done under the direction of Google counsel, I  
 4 instruct you not to answer on the grounds of  
 5 privilege.

6 THE WITNESS: Once again, the work we  
 7 the work we did on this was entirely done under the  
 8 direction of counsel. There was no work done  
 9 outside of that or for any other purpose, so I  
 10 cannot answer that question either.

11 BY MR. NORTON:

12 Q. What were the technical alternatives you  
 13 investigated to Java for Chrome?

14 MS. ANDERSON: Objection, form. Also  
 15 object on the basis attorney client, work product  
 16 privilege. Instruct the witness not to answer to  
 17 the extent responding would require you to reveal  
 18 communications with Google's counsel in confidence  
 19 or work that you did at the direction of Google.

20 THE WITNESS: Again, the work that we did  
 21 relating to Chrome was entirely done under the  
 22 direction of counsel and was work product. We we  
 23 did no such work outside of direction of counsel on  
 24 alternatives to Chrome.

25 BY MR. NORTON:

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